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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DOROTHEY HEIMBACH,

Plaintiff,

vs.

STANISLAUS COUNTY, JUSTIN
CAMARA, and ZA XIONG,

Defendants

2:23-cv-01887-DJC-CSK

Assigned to:
District Judge Daniel J. Calabretta

**PLAINTIFF'S OBJECTION TO
DEFENDANTS' VERDICT FORM**

FPTC Date: December 18, 2025
Time: 3:30 PM
Location: Courtroom 7

Plaintiff Dorothey Heimbach, individually and as successor in interest to decedent Anthony Silva, respectfully submits the following objections to Defendants' Proposed Verdict Form (ECF No. 57).

Defendants' proposed verdict form is deficient in several significant respects. The form contains improper burden-shifting language, includes inappropriate special interrogatories that single out facts favorable to the defense, and would serve to confuse and potentially deadlock the jury. Plaintiff objects to the verdict form in its entirety and respectfully requests that the Court adopt Plaintiff's proposed verdict form, which presents the issues to the jury in a clear, neutral, and legally appropriate manner.

I. THE "HAS PLAINTIFF PROVEN" LANGUAGE IS IMPROPER AND MISLEADING

Question 1 of Defendants' proposed verdict form asks whether "Plaintiff on behalf of Anthony Silva proven" that a defendant used unreasonable force. This phrasing is inappropriate and prejudicial. The fundamental question before the jury is whether defendants used excessive force in violation of the Fourth Amendment—not whether plaintiff has met an evidentiary threshold.

The burden of proof is properly addressed in the Court's jury instructions, which carefully explain the applicable legal standards and the parties' respective burdens. By front-loading burden language directly into the verdict form questions, Defendants' proposal unduly emphasizes and draws repeated attention to plaintiff's burden in a manner that is unnecessary and potentially misleading to the jury. The jury should be focused on the ultimate question—whether defendants used excessive force—not on parsing burden language embedded in each verdict form question.

II. QUESTIONS 6–16 ARE INAPPROPRIATE SPECIAL INTERROGATORIES

Defendants' proposed verdict form includes Questions 6 through 16, which ask the jury to make specific factual findings on issues including: whether Anthony Silva was under the influence; whether he "physically resist[ed]"; whether deputies "reasonably believe[d]" he was attempting to flee; whether defendants "intentionally" used force; whether defendants acted in self-defense; whether defendants "exercised due care"; and whether Anthony Silva was negligent.

These special interrogatories are inappropriate for multiple reasons:

The jury instructions for Plaintiff's excessive force claim already instruct the jury to consider the totality of the circumstances in evaluating whether defendants' use of force was reasonable. These instructions properly identify the relevant factors, including the severity of the crime at issue, whether the suspect posed an

1 immediate threat, and whether the suspect was actively resisting or attempting to
2 evade arrest. *See Graham v. Connor*, 490 U.S. 386, 396 (1989).

3 Questions 6–9 of Defendants' proposed verdict form cherry-pick certain
4 factors from this analysis and present them to the jury as standalone special
5 interrogatories. This approach improperly elevates specific facts that defendants
6 believe favor their case while ignoring equally relevant factors that support
7 liability. The jury should evaluate all relevant factors together as part of their
8 deliberations—not be directed to make isolated findings on select issues that
9 defendants wish to highlight.

10 If the Court is inclined to submit factual questions to the jury, such questions
11 cannot be limited to the handful of issues that Defendants believe support their
12 defense. Any set of special interrogatories would need to include questions
13 addressing the many factual issues that support Plaintiff's claims. Defendants' one-
14 sided approach would prejudice the jury's deliberations by focusing attention on
15 defense-favorable facts while ignoring equally relevant facts that support liability.

16 By way of example, if the Court were to adopt special interrogatories, the
17 following additional questions—among others—would need to be included to
18 provide balance: (1) Did defendants fail to use available de-escalation techniques
19 before using force against Anthony Silva? (2) Did defendants fail to monitor
20 Anthony Silva's medical condition. (3) Was Anthony Silva handcuffed or
21 otherwise secured at the time force was applied? (4) Did Anthony Silva pose an
22 immediate threat of serious physical harm to the deputies or others at the time
23 deadly force was used? (5) Did defendants give warnings or commands to Anthony
24 Silva before using force? (6) Did defendants know that they were taking Anthony
25 Silva headfirst onto concrete? (7) Did defendants know that a leg-sweep takedown
26 on hard concrete used against a handcuffed detainee had a high risk of causing
27 serious injury or death?
28

1 Plaintiff's position, however, is that inclusion of any such special
2 interrogatories would be confusing, a waste of the jury's time, and would introduce
3 unnecessary appellate issues. The verdict form should be kept simple and should
4 direct the jury's attention to the ultimate legal questions at issue, not subsidiary
5 factual disputes.

6 **III. THE COMPARATIVE NEGLIGENCE AND CAUSATION**
7 **QUESTIONS ARE DEFECTIVE**

8 Question 11 asks the jury to determine whether Anthony Silva was negligent
9 and, if so, to assign a percentage of negligence—yet the form fails to first ask
10 whether any such negligence was a cause of his injuries or death. A finding of
11 negligence without a corresponding causation finding is legally meaningless and
12 would create confusion.

13 Additionally, the form asks for Silva's percentage of negligence twice—once
14 in Question 11 and again in Question 14—creating redundancy and potential for
15 inconsistent findings.

16 Furthermore, this question should not be on the verdict form because, for
17 reasons described in Plaintiff's trial brief, Defendants' comparative negligence
18 defense fails as a matter of law.

19 **IV. THE "THIRD PARTY" ALLOCATION IN QUESTION 14 IS**
20 **IMPROPER**

21 Question 14 asks the jury to assign a percentage of negligence to an
22 unidentified "Third party" without specifying whose negligence is at issue or
23 whether such negligence was a cause of Anthony Silva's death. This question is
24 defective on its face. Moreover, as explained in Plaintiff's Trial Brief, third-party
25 fault allocation is not available to Defendants under the circumstances of this case,
26 and this question should be stricken entirely.

V. QUESTION 13 IMPROPERLY SEPARATES CAUSATION OF DEATH FROM CAUSATION OF INJURY

Question 13 asks whether any defendant was "the cause of the death" of Anthony Silva, separate from Question 12's inquiry into causation of his spinal injury. This separation is misleading. As a matter of law, Defendants are liable for all injuries proximately caused by their conduct, including death that flows from an initial injury. As set forth in Plaintiff's Trial Brief, the evidence establishes that Anthony Silva's death was proximately caused by the spinal injury he sustained during the takedown. Defendants have offered no evidence to the contrary. Separating these questions invites jury confusion on a matter that should be resolved as a matter of law or, at minimum, presented as a single causation inquiry.

VI. CONCLUSION

Defendants' proposed verdict form is convoluted, confusing, and riddled with technical errors—from duplicate question numbers to circular routing instructions to legally defective interrogatories. This demonstrates precisely why the Court should adopt Plaintiff's straightforward verdict form, which focuses the jury on the elements of the claims at issue rather than the creative approach defense counsel has taken. The verdict form should guide the jury through its deliberations clearly and neutrally.

Dated: December 15, 2025

LAW OFFICES OF DALE K. GALIPO

By: /s/ Cooper Alison-Mayne
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 Cooper Alison-Mayne
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